

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2065 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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BHOJUMAL SUMARMAL MEGHWANI

Versus

COLLECTOR

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Appearance:

MR VIJAY H PATEL for Petitioner

MS MANISHA LAVKUMAR, AGP, for Respondent No. 1, 2

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 20/07/2000

ORAL JUDGEMENT

1. Having heard the learned counsel for the parties, I do not find any merits in this special civil application.

2. On inspection of the fair-price shop of the petitioner, it stock of 600 kgs. of wheat, 175 kgs. of Til and 45 kgs. of groundnut was found at different

places other than the place mentioned in the licence. It was taken to be a case of illegal storage of essential commodities. It was also found that the petitioner has not produced bills or other documents for purchase of the aforesaid essential commodities and this stock was also not entered in the stock register. The petitioner was called upon to show cause as to why the stock of these essential commodities may not be confiscated under sec. 6A of the Essential Commodities Act. The petitioner has given reply to the show cause notice. After considering the reply to the notice, the Dist. Supply Officer, Panchmahals at Godhra under its order annexure 'C' dated 2nd March, 1989 ordered for confiscation of whole stock aforesaid valuing to Rs.23013/=. The petitioner preferred an appeal under section 6 (C) of the Essential Commodities Act against the aforesaid order and the same came to be rejected by the Dy. Secretary, Food and Civil Supplies Department, Government of Gujarat under the order dated 4-1-1991. Hence, this special civil application.

3. Shri Vijay H. Patel, learned counsel for the petitioner vehemently contended that it is not a case of any irregularity committed by the petitioner. The agricultural produce i.e. wheat, til and groundnut were his own agricultural produce of his land and the petitioner has all the right to keep it at the place other than the place mentioned in the licence. As these commodities are not the essential commodities purchased by the petitioner for supply of same to the consumers, it was not required to be entered into the stock register nor any bills are to be there. On the request of the petitioner, the licence has been cancelled and a lenient view may be taken in the matter.

4. Ms. Manisha Lavkumar, AGP, on the other hand, contended that it is a clear case of violation of the orders framed under the Essential Commodities Act, 1955. All the two authorities concurrently held against the petitioner. The petitioner has failed to produce any cogent and satisfactory evidence to establish that the aforesaid agricultural produce - essential commodities were produce of his own agricultural land.

5. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties.

6. Reply to the show cause notice is there on the record and therefrom I find that the petitioner has mentioned that he has joint agricultural holdings with his father and brother, the details of which have not

been given. During the course of arguments, the petitioner has shown village form No.7-12 and therefrom I find that total land available with the petitioner, his father and brother is of about 5 to 6 acres. The petitioner has not produced any evidence to show that there was produce of wheat, til and groundnut on the land and in his share this much quantity has come. Learned counsel for the petitioner when confronted with this position contended that these produce were belonging to the petitioner, his father and brother jointly. However, there is also no material in support thereof. Merely on the say of the petitioner, it is difficult to accept as he is a highly interest person in the matter, that produce belongs to him. The petitioner has utterly failed to establish that these agricultural produce were of his own which he derived from the agricultural land and in the absence of any material, rightly both the authorities have held that this is the stock which has been kept by the petitioner at the place other than the place mentioned in the licence. The petitioner has not produced any bill of purchase of this products as well as the same has also not been entered in the stock register. If such a plea is accepted only on the basis of what orally stated by the party, licence holder then it will be very easy for the persons who have been granted licence for fair price shops to enter into all malpractices and black-marketing of the essential commodities.

7. As a result of the aforesaid discussion, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted stands vacated. The petitioner is directed to pay Rs.500/= as costs of this petition to the State.

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zgs/-